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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,521	12/07/2001	Douglas M. Dillon	PD-N970636A	1352

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THE DIRECTV GROUP INC
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EXAMINER

TRAN, NGHI V

ART UNIT PAPER NUMBER

2151

DATE MAILED: 11/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/010,521	Applicant(s) DILLON ET AL.	
	Examiner Nghi V. Tran	Art Unit 2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17, 18, 21-24, 26-28, 31-34, 36, 37, 47, 48, 51-54, 56, 57 and 59-61 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-18, 21-24, 26-28, 31-34, 36-37, 47-48, 51-54, 56-57, and 59-61 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2151

DETAILED ACTION

1. This office action is in response to the amendment filed on August 03, 2006. Claims 23-24, 27, 33-34, and 54 have been amended. Claims 1-16, 19-20, 25, 29-30, 35, 38-46, 49-50, 55, and 58 have been canceled. Claims 59-61 have been added. Therefore, claims 17-18, 21-24, 26-28, 31-34, 36-37, 47-48, 51-54, 56-57, and 59-61 are presented for further examination.

Response to Arguments

2. Applicant's arguments, filed August 03, 2006, with respect to claims 17-39 and 47-58 have been fully considered and are persuasive. The previous rejection of 17-39 and 47-58 has been withdrawn.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 2151

4. Claims 17-18, 21, 23, 26-28, 31, 33, 37, 47-48, 51, 53, and 56-57 are rejected under 35 U.S.C. 102(e) as being anticipated by Dillion et al., United States Patent Number 6,473,793 (hereinafter Dillion).

5. With respect to claims 17, 23, 27, 33, 47, and 53, Dillion teaches a gateway [i.e. a hybrid gateway **150**] for use in a system [fig.1] wherein a first apparatus [i.e. a hybrid terminal **110**], said gateway, and a second apparatus [i.e. application servers **140**] are coupled to a TCP/IP network [i.e. the hybrid gateway **150** are connected to the Internet **128**, col.7, lns.35-36], wherein the source apparatus, said gateway, and the second apparatus have different IP addresses [fig.1], said gateway comprising:

- a packet receiving unit that is configured to receive a packet addressed at the IP level from the first apparatus to the second apparatus [figs. 9 and 12-13]; and
- a service plan determining unit that is configured to determine a level of service subscribed to by a user of the first apparatus [col.4, ln.56 through col.5, ln.4];
- a throttling unit that is configured to throttle the user of the first apparatus by adjusting the transport level window size of the packet in accordance with bandwidth usage associated with the user of the first apparatus, and sending the adjusted packet to the second apparatus [col.14, ln.42 through col.16, ln.56 and see abstract];

Art Unit: 2151

- wherein the packet received by said packet receiving unit has, as its source IP address, the IP address of the first apparatus, and has, as its destination IP address, the IP address of the second apparatus [figs.4-5, 7, and 11].

6. With respect to claims 18, 28, and 48, Dillion further teaches wherein the bandwidth usage is measured as an amount of data per unit of time [col.6, Ins.52-56].

7. With respect to claims 21, 31, and 51, Dillion further teaches wherein the bandwidth usage is expressed as an average throughput [col.21, Ins.4-10].

8. With respect to claims 26 and 56, Dillion further teaches wherein said throttling unit compare bandwidth usage to a threshold [col.14, ln.42 through col.16, ln.56].

9. With respect to claims 37 and 57, Dillion further teaches wherein said transport level window size is the TCP window size field of the packet [col.16, Ins.8-36].

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 2151

11. Claims 22, 32, and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dillion as applied to claims 17, 27, and 47 above, in view of Guha, U.S. Patent No. 5,699,369.

12. With respect to claims 22, 32, and 52, Dillion does not explicitly show wherein the bandwidth usage is determined using a leaky bucket analysis.

In a communication system, Guha discloses the bandwidth usage is determined using a leaky bucket analysis [col.13, Ins.6-16].

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Dillion in view of Guha by using a leaky bucket analysis because this feature avoids congestion [Guha, col.13, ln.6]. It is for this reason that one of ordinary skill in the art at the time of the invention would have been motivated in order to allow sources to shape the traffic [Guha, col.13, Ins.13-14].

13. Claims 24, 34, 36, 54, and 59-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dillion, in view of Guha.

14. With respect to claims 24, 34, 54, and 59-61, Dillion teaches a gateway [i.e. a hybrid gateway **150**] for use in a system [fig.1] wherein a first apparatus [i.e. a hybrid terminal **110**], said gateway, and a second apparatus [i.e. application servers **140**] are coupled to a TCP/IP network [i.e. the hybrid gateway **150** are connected to the Internet

Art Unit: 2151

128, col.7, Ins.35-36], wherein the source apparatus, said gateway, and the second apparatus have different IP addresses [fig.1], said gateway comprising:

- a packet receiving unit that is configured to receive a packet addressed at the IP level from the first apparatus to the second apparatus [figs. 9 and 12-13];
and
- a service plan determining unit that is configured to determine a level of service subscribed to by a user of the first apparatus [col.4, ln.56 through col.5, ln.4];
- a throttling unit that is configured to throttle the user of the first apparatus by adjusting the transport level window size of the packet in accordance with bandwidth usage associated with the user of the first apparatus, and sending the adjusted packet to the second apparatus [col.14, ln.42 through col.16, ln.56 and see abstract];
- wherein the packet received by said packet receiving unit has, as its source IP address, the IP address of the first apparatus, and has, as its destination IP address, the IP address of the second apparatus [figs.4-5, 7, and 11].

However, Dillion does not explicitly show wherein the bandwidth usage is determined using a leaky bucket analysis.

In a communication system, Guha discloses the bandwidth usage is determined using a leaky bucket analysis [col.13, Ins.6-16].

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Dillion in view of Guha by using a leaky bucket

Art Unit: 2151

analysis because this feature avoids congestion [Guha, col.13, ln.6]. It is for this reason that one of ordinary skill in the art at the time of the invention would have been motivated in order to allow sources to shape the traffic [Guha, col.13, lns.13-14].

15. With respect to claim 36, Dillion further teaches wherein said throttling unit compare bandwidth usage to a threshold [col.14, ln.42 through col.16, ln.56].

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. "System and method for managing bandwidth in a two-way satellite system," by Kelly et al., United States Patent Number 6,987,741.


17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nghi V. Tran whose telephone number is (571) 272-4067. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on (571) 272-3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2151

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nghi V Tran
Patent Examiner
Art Unit 2151



RUPAL DHARIA
SUPERVISORY PATENT EXAMINER